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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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HOOTY ENTERPRISES, INC.	:	ECF CASE
and subrogated insurers,	:	
	:	
Plaintiffs,	:	07 Civ. 4806 (CM)
	:	
- against -	:	COMPLAINT
	:	
R & L CARRIERS, INC.	:	
	:	
Defendant.	:	

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Plaintiffs, through their undersigned attorney, allege as follows for their complaint against defendants:

1. Plaintiff Hooty Enterprises, Inc. is a corporation organized under the laws of one of the fifty states and sues herein as consignee and owner of the cargo in suit and for and on behalf of the subrogated cargo insurer, Continental Insurance Co., as its interest may appear.

2. Defendant is believed to be a corporation organized under the laws of, and with its principal places of business in, one of the fifty states.

3. This Court has jurisdiction over the subject matter to this action pursuant to 28 U.S.C. § 1331 as this action arises from the carriage of goods in interstate commerce and is governed by the Carmack Amendment to the Interstate Commerce Act, 49 U.S.C. § 11706, and federal statutes and federal common law related thereto.

Concurrently there is pendent, ancillary and supplemental jurisdiction as to certain aspects of the claims in suit.

4. Upon information and belief defendant at all material times conducted business within the State of New York, including the pick up, carriage and delivery of cargo, and the provision of services related thereto, and is subject to the *in personam* jurisdiction of this Court.

5. This action involves damage to of a shipment of eyeglass cases which moved from Jamaica, New York, to Miami, Florida, as described more fully in R & L Carriers, Inc. freight bill no.: I470779704 dated on or about June 1, 2006, and others. (R & L Carriers, Inc. claim no.: M1018507)

6. Said damage was the result of defendant's reckless failure to properly carry and care for the cargo in suit; and its breaches of fiduciary duties owed to plaintiffs.

7. By reason of the aforesaid, plaintiffs, and those on whose behalf they sue, have sustained damages in the amount of \$10,200.00, no part of which has been paid although duly demanded.

8. Plaintiffs sue herein on their own behalf and as agents and trustees for and on behalf of anyone else who may now have or hereafter acquire an interest in this action.

9. Plaintiffs, and those on whose behalf they sue, have performed all conditions precedent required of it under the premises.

SECOND CAUSE OF ACTION

10. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 9 of this complaint.

11. On or about June 1, 2006 the cargo in suit was delivered in good order and condition into the custody and control of defendant for purposes of carriage to the agreed destination.

12. Defendant failed to deliver the cargo at the agreed destination in the same good order and condition. Instead the cargo sustained damage during transport which rendered it unfit for intended usage.

13. As a result of the aforesaid, defendant is liable to plaintiffs as common carrier and/or bailee for hire.

WHEREFORE, plaintiffs demand judgment against defendant R & L Carriers, Inc.:

- a) for the sum of \$10,200.00;
- b) for prejudgment interest at the rate of 9% per annum;
- c) for the costs of this action;
- d) for such other and further relief as this court deems proper and just.

Dated: New York, New York
June 6, 2007

LAW OFFICES,
DAVID L. MAZAROLI

s/David L. Mazaroli

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